IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition No. 137 of 2006 (S/B)

Rakesh Kumar Sharma S/o Sri Shiv Sharan Sharma,
R/o B-2 Sugar Mill Colony, Kichcha,
District Udham Singh Nagar. ..... Petitioner

Versus

1. State of Uttaranchal through Secretary Sugars,
   Uttaranchal Shashan, District Dehradun.
2. Kichcha Sugar Company Ltd.,
   through its Executive Director,
   Kichcha, District Udham Singh Nagar.
3. Chief Executive Officer, Uttaranchal Sugars,
   District Dehradun.
4. S.D. Saini S/o Sri Ratan Singh Saini,
   Assistant Engineer, Kichcha Sugar Company,
   Kichcha, District Udham Singh Nagar. .... Respondents

Mr. Jagdish Singh Bisht, Advocate on behalf of Mr. Sharad Sharma, Advocate for the Petitioner.
Mr. Subash Upadhyay, Brief Holder for respondents Nos. 1 and 3.
Mr. Rajesh Joshi, Advocate on behalf of Mr. T.A. Khan, Advocate for respondent No. 2.
Mr. S.N. Babulkar, Senior Advocate with Mr. Tumul Nailwal, Advocate for respondent No. 4.

JUDGMENT

Comram: Hon'ble Rajeev Gupta, C.J.
Hon'ble J.C.S. Rawat, J.

RAJEEV GUPTA, C. J. (Oral)

Mr. Jagdish Singh Bisht, Advocate on behalf of Mr. Sharad Sharma, Advocate for the Petitioner.

Mr. Subash Upadhyay, Brief Holder for respondents Nos. 1 and 3.

Mr. Rajesh Joshi, Advocate on behalf of Mr. T.A. Khan, Advocate for respondent No. 2.

Mr. S.N. Babulkar, Senior Advocate with Mr. Tumul Nailwal, Advocate for respondent No. 4.

2. The learned counsel for the respondents have raised a preliminary objection about the maintainability of the writ petition on

the ground that the petitioner has an alternative efficacious remedy of filing a claim petition before the Public Services Tribunal. The learned counsel, further, referred to the order dated 23.03.2007 passed in W.P. No. 142 of 2006 (S/B), whereby the writ petition was dismissed with the liberty to the petitioner to avail the alternative remedy of filing a claim petition before the Public Services Tribunal.

3. Mr. Jagdish Singh Bisht, the learned counsel for the petitioner could not demonstrate as to how the alternative remedy of filing a claim petition before the Public Services Tribunal is not efficacious in the present case.

4. In this view of the matter and following the Division Bench decisions of this Court in the cases of Bhuwan Chandra Pandey and others Vs. State of Uttaranchal and others reported in **2006 (2) U.D. 439 and Nanda Ballabah Pant Vs. State of Uttaranchal and others (W.P. No. 257 (S/B) of 2005),** we decline to exercise our discretionary jurisdiction under Article 226 of the Constitution of India.

5. The writ petition, therefore, is liable to be dismissed.

6. The writ petition, therefore, is dismissed with the liberty to the petitioner to avail the alternative remedy of filing a claim petition before the Public Services Tribunal for the redressal of the grievances projected by the petitioner in this writ petition and also to seek condonation of the delay in filing the claim petition on the ground that the petitioner was pursuing this writ petition under bonafide belief.

7. With the above order, CLMAs Nos. 9229 of 2006 and 4984 of 2006 also stand disposed of.

(J.C.S. Rawat, J.) **(Rajeev Gupta, C. J.)**
24.04.2007 24.04.2004

Kawal